

1 identity of KMPH as "your station" -- an attribute that makes KMPH unique among the
2 commercial television stations serving the Fresno market, of which there are a total of
3 eight (8).

4 16. The signal of KMPH is received by 98% of the households within the market
5 area of KMPH. FSU athletic events are among the most important entertainment events
6 in the San Joaquin Valley. For example, according to Arbitron the away game between
7 undefeated FSU and winless New Mexico State which was televised by KMPH on
8 Saturday afternoon, October 19, 1991 received a 33% share (nearly 200,000 persons
9 viewing in the entire Valley). Approximately one out of every three people watching

10 television within the market area of KMPH and during the entire period was watching

1 "It is the prerogative of the home team to allow the visiting
2 team's television station to televise the game back to the
3 visitor's home television market." (Big West Conference 1991-
4 92 Manual and Personnel Directory By-Laws, Part 4-
5 Administrative Regulations, Section 403.5 Local Non-Network
6 Television Rights Fees Section 403.5.1.)

7 This provision was adopted and has been followed, among other reasons, because the
8 home team is in a better position than the visiting university to negotiate issues such as
9 stadium access, power supply and lighting, working media credentials, camera positions,
10 announcing booth space, complimentary tickets, and adherence to network and FCC
11 policies and regulations affecting the broadcast site.

12 18. UOP has agreed to allow FSU and KMPH to telecast the November 9, 1991
13 football game between FSU and UOP scheduled to be played at the UOP home stadium.

14 THE NCAA'S ROLE IN TELEVISION COVERAGE OF
15 INTERCOLLEGIATE FOOTBALL

16 19. The by-laws of the NCAA provide for the classification of members into three
17 divisions (denominated I, II, and III) according to specified criteria relating generally to
18 the size and diversity of each institution's athletic program. Division I is comprised of
19 276 schools with the largest and most diverse athletic programs. Of the Division I
20 schools, approximately two-thirds of those field intercollegiate football teams. For the
21 sport of football only, those institutions recently have been further subdivided into
22 Division 1-A (consisting of the institutions with major football programs) and 1-AA.
23 Institutions are assigned to Division 1-A or 1-AA according to criteria which include the
24 size and prominence of the football program, the size of the school's football stadium,
25 and average paid attendance. Generally speaking, Division 1-A members are those

1 20. From 1951 until June 27, 1984, the NCAA formulated television plans for
2 coverage of college football by the commercial television networks. During this period
3 the NCAA negotiated all agreements with the television networks, and controlled the
4 entire market for live college football television broadcasts. No NCAA member was
5 permitted to sell live television rights to its own college football games except in
6 accordance with the NCAA plan then in effect.

7 THE NCAA DECISION

8 21. Two NCAA members brought a lawsuit against the NCAA alleging that the
9 NCAA's control of college football television violated the federal antitrust laws. On June
10 27, 1984, the United States Supreme Court held in that lawsuit that the NCAA's
11 television plan (including its contracts with two national television networks pursuant to
12 the plan) violated Section 1 of the Sherman Act. The Supreme Court held that the NCAA
13 plan had the effect of fixing the prices for and restricting the output of live college
14 football television broadcasts, lacked any adequate justification for these anti-competitive
15 features, and therefore amounted to an unreasonable restraint of trade in violation of
16 Section 1 of the Sherman Act. NCAA v. Board of Regents of the University of Oklahoma,
17 et al., 468 U.S. 85, 104 S.Ct. 2498 (1984) (the "NCAA decision").

18 22. The Supreme Court concluded that the NCAA plan limited both the total
19 amount of televised college football available and the number of games that any one
20 team could televise. These limitations were found to be a classic horizontal agreement to
21 limit output (and thus enhance price) in restraint of trade. The Court referred to the
22 District Court's finding that the output restrictions had the effect of raising the price paid
23 by the networks for television rights, and pointed out that the restrictions could be
24 enforced by the NCAA's power to impose sanctions on its member institutions. The
25 Court cited with approval the District Court's conclusion that "Many telecasts that would
26 occur in a competitive market are foreclosed by the NCAA's plan" and concluded that the
27 output-limiting aspect of the NCAA plan:

28 "Constitutes a restraint upon the operation of a free market,

1 and the findings of the District Court established that it has
2 operated to raise price and reduce output. With the Rule of
3 Reason, these hallmarks of anti-competitive behavior place
4 upon petitioner a heavy burden of establishing an affirmative
5 defense which competitively justifies this apparent deviation
6 from the operations of a free market."

7 The Supreme Court concluded that the justifications proffered by the NCAA were
8 insufficient to justify the anti-competitive effects of the restraints.

9 TELEVISION BROADCASTING AGREEMENT BETWEEN KMPH AND FSU

1 This agreement shall be for a term commencing on July 15, 1985 and
2 ending June 30, 1988; provided, however that Contractors shall have a two-
3 year option to renegotiate this agreement for the 1988-89 and 1989-90
4 years. On or before April 15, 1988, Corporation shall provide Contractors
5 with the terms and conditions of the extended agreement. Contractors shall
6 exercise said option on or before May 1, 1988 and the written agreement
7 shall be made and entered into not later than June 1, 1988.

8 H. FEEDS, TELECAST SALES

9 (1) Contractors and Corporation may sell said telecasts outside the
10 Contractor's ADI. Contractors and Corporation shall share any rights
11 fees negotiated at a split of 50% each. Said compensation does not
12 include any production charges for said telecasts which shall be
13 exclusive property of Contractors. Any outside interest seeking to
14 televise games scheduled for airing by Contractors must negotiate
15 with the Contractors for using said telecast content. (All production
16 costs paid by other parties remain 100% the property of
17 Contractors.) [Original emphasis]

18 I. ADDITIONAL PRODUCTION

19 (6) Contractors retain first right of refusal for all Corporation
20 athletic events. Any sport or particular event not retained for

1 *EXCLUSIVITY: The parties hereto agree that no other television medium shall be
2 licensed to carry or broadcast the events carried by station - Contractor pursuant
3 to the rights granted by this Agreement when such medium would carry or
4 telecast such events into or within the "Area of Exclusivity" described in Paragraph
5 A.1 of the Agreement.

6 This provision, which by asterisk is inserted into Paragraph 13 of the Addendum, was
7 initialled by Messrs. Graham, Pappas and Zuckerman. True and correct copies of the
8 Television Broadcasting Agreement and the Addendum are attached hereto as Exhibit "A"
9 and incorporated herein by reference.

10 25. Pursuant to Exhibit "A", specifically Paragraph A-3, on Page 2, the only
11 limitations or exceptions respecting Plaintiffs' right of first refusal to televise all FSU
12 athletic events are: Plaintiffs' rights would be subject to the rights of the home school if
13 the intended television broadcast were an FSU away contest; and excepted from the
14 rights granted to Plaintiffs were nationwide telecasts of FSU athletic events which might
15 be carried over any, or all, of the three, free, over the air television networks: ABC, NBC
16 and CBS; and one "game of the week" to be telecast over the KATZ Network ("KATZ") or
17 subsequently its successor, Raycom, which had a contract with the Pacific Coast Athletic
18 Association ("PCAA"), the predecessor to the Big West. KATZ or its successor, Raycom,
19 had the right to telecast one game per week over free, over the air, television. The word
20 "telecast" used in Paragraph A-3 was used by the parties to distinguish between free, over
21 the air broadcasts, such as that transmitted by Plaintiffs' television station, KMPH, and
22 cable carriage of television pictures which are not transmitted by a television signal. At
23 the time Exhibit "A" was negotiated, except for the Entertainment Sports Programming
24 Network ("ESPN"), which was in its infancy, there was no cable sports carriage. Further,
25 ESPN had not expressed any interest in cable carriage of PCAA or FSU games and there
26 were no agreements between the PCAA and ESPN or any other cable organizations.
27 Pursuant to Exhibit "A", Paragraph I-6, it was only after Contractors (Plaintiffs) refused to
28 televise an FSU athletic event, that Corporation (FSU) could offer the event to "other

1 stations/and/or cable outlets" [emphasis added].

2 26. Because of the significant contributions made by Plaintiffs to the growth and
3 success of the FSU athletic program, FSU agreed in 1987 that Plaintiffs would have the
4 right to further extend the original term of the contract (through June 30, 1990), an
5 additional year through the 1990-1991 season (which ended June 30, 1991). Further,
6 on or about March 5, 1991, before the expiration of the agreement between FSU and
7 Plaintiffs, the contract was further extended through and including the 1991-1992 season
8 (terminating on June 30, 1992). Attached hereto as Exhibit "B" is a true and correct
9 copy of the extension and continuation of the FSU/KMPH Television Broadcast
10 Agreement, incorporated herein by reference. That extension was drafted by Scott
11 Johnson ("Johnson"), Assistant Athletic Director and Director of Sports Information for
12 FSU and was executed by Les Snyder, Jr., General Manager, California State University,
13 Fresno Athletic Corporation on March 5, 1991 and by LeBon Abercrombie on behalf of
14 KMPH on March 1, 1991.

15 27. Plaintiffs are informed and believe and thereupon allege that sometime prior
16 to January 31, 1989, three and a half years after the execution of the contract between
17 KMPH and FSU (Exhibit "A"). Defendant, the Big West, negotiated a contract with

1 to Plaintiffs and those purportedly and subsequently granted to Marketing, as a result of
2 the close cooperation between FSU and KMPH, KMPH was able to broadcast a full and
3 complete schedule of football and basketball events during the 1989-1990 season and a
4 full football schedule during the 1990-91 season. Further, when a problem arose with
5 respect to who had the primary rights to broadcast athletic events in which FSU was a
6 participant, KMPH and the party with whom Marketing apparently reached an
7 arrangement with respect to broadcasting conference sporting events, Defendant
8 SportsChannel, was able to cooperatively produce the events utilizing a "split-feed,"
9 whereby KMPH telecast the event exclusively within its ADI and SportsChannel provided
10 the event via cable carriage outside the ADI of KMPH. This was true until March, 1991
11 when Defendant SportsChannel refused KMPH a "split-feed" for an away basketball game
12 between New Mexico State University and FSU which SportsChannel was unable to
13 broadcast into most of the ADI of KMPH because it had no carriage contract with
14 Continental.

15 29. Plaintiffs are informed and believe and thereupon allege that early in 1990,
16 Defendants, the Big West and Marketing, discussed the renegotiation of their contract.
17 Plaintiffs are further informed and believe and thereupon allege that the athletic
18 directors representing the individual conference members met in Santa Barbara,
19 California, in or about April of 1990. Plaintiffs are further informed and believe and
20 thereupon allege that the express purpose of this meeting was to let a new contract, after
21 open bidding, for television coverage of conference athletic events. Plaintiffs are further
22 informed and believe and thereupon allege that prior to the commencement of that
23 meeting Johnson advised Cunningham that KMPH had preexisting contractual rights to
24 broadcast FSU athletic events and that any contract between Defendants, the Big West
25 and Marketing, or any other party, to the contrary would be inconsistent with his
26 understanding that FSU had previously sold these rights to KMPH. Plaintiffs are further
27 informed and believe and thereupon allege that there was no open bidding and the
28 contract with Defendant Marketing was renegotiated and executed with terms of and

1 conditions which were not in the best interest of the individual members of the Big West.

2 30. Plaintiffs are further informed and believe and thereupon allege that after the
3 conclusion of the meeting in Santa Barbara, in or about April 1990, Cunningham advised
4 Johnson that he had abstained, on behalf of FSU, from the vote which approved the new
5 contract between Defendants Marketing and the Big West. Further, Plaintiffs are
6 informed and believe and thereupon allege that Defendants Marketing, the Big West and
7 SportsChannel were all advised of FSU's contract with KMPH during the meeting in Santa
8 Barbara in or about April 1990.

9 1991 KMPH/FSU TELEVISION FOOTBALL SCHEDULE

10 31. Pursuant to and in fulfillment of its contractual obligations with FSU, KMPH
11 was originally scheduled to broadcast the following six (6) home and away games on the
12 following dates:

13 Northern Illinois - September 7, 1991 (Home)

14 Washington State - September 14, 1991 (Away)

15 Oregon State - September 21, 1991 (Away)

16 New Mexico - October 5, 1991 (Home)

17 New Mexico State - October 19, 1991 (Away)

18 Utah State - November 2, 1991 (Away)

19 32. As a result of contractual provisions between Prime Ticket, and the Pac-10
20 Conference, which provisions of exclusivity were asserted by Prime Ticket, Plaintiff KMPH
21 was unable to telecast the originally scheduled away games between FSU and Pac-10
22 members, Washington State University, and Oregon State University.

23 33. To date Channel 26 has broadcast only the Northern Illinois, New Mexico and
24 New Mexico State games. KMPH will broadcast the Utah State game on November 2,
25 1991. These four (4) telecasts will total two home and two away games with only three
26 games remaining to be played after the November 2, 1991 telecast of the Utah State
27 game.

28 34. Because of Prime Ticket's interference with the right of KMPH to broadcast

1 the FSU v. Washington State and FSU v. Oregon State games, FSU has offered two (2)
2 alternative two (2) game packages to KMPH so that KMPH and FSU can fulfill their
3 mutual contractual obligation to broadcast six (6) FSU football games and "... a
4 minimum of four (4) live football away games and negotiated advanced sell out games
5 annually." (Exhibit "A", Paragraph B.2, page 2).

6 35. The two alternative packages which FSU previously offered to KMPH
7 consisted of the following:

8 Package 1: The away game between FSU and UOP on November 9, 1991 and FSU
9 v. San Jose State on November 23, 1991 which is a home game. This package is
10 preferred by FSU because the game against Pacific is a traditional rivalry and is an
11 away game and, therefore, the FSU home gate receipts will not be negatively
12 impacted. Further, because the San Jose State game is traditionally the biggest
13 interconference game, frequently decides the conference championship, is usually
14 a sell out and, is likely to be a sell out, the chance that the FSU home gate
15 receipts will be damaged by televising this game is diminished.

16
17 Package 2: The home games between FSU and Long Beach State and Cal State
18 Fullerton on October 12, 1991 and November 16, 1991, respectively. KMPH was
19 advised by FSU that FSU preferred that these games not be broadcast because the
20 broadcast of these games would hurt the FSU home gate receipts because Long
21 Beach and Fullerton are not particularly strong teams this year and are not
22 traditional rivals of FSU. In the judgment of KMPH, this package was of less
23 interest to KMPH viewers and, therefore, of lesser value to the KMPH advertisers
24 who had purchased advertising based upon the original schedule, including the
25 two games against the two (2) Pac-10 opponents. Pursuant to the agreements
26 between KMPH and the advertisers, KMPH has guaranteed certain ratings during
27 each of the football telecasts. In the judgment of KMPH, those ratings will be
28 achievable by substituting the UOP and San Jose State games for the originally

1 scheduled games against the two (2) Pac-10 opponents.

2 36. If KMPH is able to broadcast the UOP and San Jose State games, then the
3 combination of those two (2) games, together with the previously broadcast Northern
4 Illinois, New Mexico, New Mexico State and Utah State games, will total six (6) FSU
5 football games, as contractually stipulated in Exhibit "A," and further KMPH will have
6 satisfied the provisions of Paragraph B-2 of Exhibit "A" which obligates KMPH to
7 broadcast a total of four (4) away and sold out home games annually. New Mexico
8 State, Utah and UOP would be the away games and San Jose State would be the sold out
9 home game. A package of telecasts, including the UOP and San Jose State games, is the
10 only package which will allow the parties to Exhibit "A." FSU and KMPH. to fulfill their

1 Plaintiff Harry J. Pappas telephoned representatives for Defendant SportsChannel.

2 40. On October 3, 1991, Plaintiff Harry J. Pappas, spoke by telephone with John
3 Moore, President of Defendant SportsChannel. After exchanging pleasantries and a
4 discussion of their respective positions, Mr. Moore said "We buy these rights to drive
5 distribution". His meaning was clear: SportsChannel would not agree to a split-feed for
6 these games because the exclusive right to have these games seen within the ADI of
7 KMPH via the SportsChannel network is a powerful inducement for Continental to finally
8 agree to a carriage contract between Continental and SportsChannel - a contract that
9 SportsChannel has been aggressively seeking for some time and is pressing for right now.

10 41. Even if Defendant SportsChannel is successful in persuading Continental to
11 compute its service, only 40% of the homes within the ADI of KMPH have access to cable

1 would facilitate their negotiations.

2 44. Nevertheless Defendants SportsChannel, the Big West, and Marketing have
3 refused and continue to refuse to allow KMPH to telecast the FSU v. UOP game and the
4 FSU v. San Jose State game.

5 45. Based upon the Arbitron ratings for the October 19, 1991 game against New
6 Mexico State, one of the lower rated FSU/KMPH football telecasts, approximately 66,000
7 households watched the October 19, 1991 game. Approximately 50% of these
8 households have cable, the remaining 50%, or approximately 33,000 which viewed that
9 FSU game do not have cable. Therefore, if just these approximately 33,000 households

1 FSU are both incapable of performing their mutual obligations pursuant to their contract,
2 then FSU and the member universities of Defendant, the Big West, will have been
3 deprived of revenues from the telecasts of the games in which Big West members, UOP
4 and San Jose State, are to be participating universities. Further, the advertisers who
5 have agreed to purchase advertising to be shown during these games will not derive the
6 benefit of their advertising contracts with KMPH and will, therefore, in all likelihood,
7 suffer pecuniary damage from their inability to advertise their products as planned and
8 may seek legal redress from KMPH. Further, whether or not Defendant SportsChannel
9 and Continental enter into a cable carriage contract, hundreds of thousands of viewers
10 within the ADI of KMPH will be deprived of the opportunity of watching the Bulldogs
11 perform in these two games. If Defendant SportsChannel and Continental do enter into
12 a cable carriage contract and this Court does not grant the requested relief, then the
13 consumers will be paying for these two (2) football games when they have historically
14 been able to watch them for free on KMPH.

15 48. Defendants specifically intend to harm KMPH competitively by their restrictive
16 agreements. This is evidenced by the comments made by Mr. Moore cited in Paragraph
17 35, supra. Defendants specifically agreed to their unlawful, restrictive agreements with
18 the specific intent of interfering with the preexisting contractual rights of KMPH, and
19 with the further intent of substantially limiting the number of games available for live
20 telecast and destroying Plaintiffs and other telecasters with which KMPH does business
21 for the telecasting of its football telecasts. Unless the relief sought in this case is granted
22 by this Court, the practical effect of the Defendants' Agreements will be to deprive KMPH
23 of its preexisting contractual rights, deprive between 400,000 to 500,000 viewers within
24 the ADI of KMPH, including Plaintiff Harry J. Pappas, the opportunity to see these two
25 (2) football games on the only medium presently able to televise those games. Even if
26 Defendant SportsChannel and Continental enter into a cable carriage contract, 50% of
27 the viewers within the ADI of KMPH who do not have access to cable will be totally
28 foreclosed from viewing these two games and thus the conduct of Defendants will

1 deprive the consumer of the opportunity to view games which are of substantial viewing
2 interest and commercial value or will cost the consumer in excess of \$1,000,000 to view
3 that which he or she previously viewed for free on KMPH.

4 IRREPARABLE INJURY

5 49. If Defendants are allowed to continue their course of concerted, unlawful,
6 coercive, anti-competitive and monopolizing actions, and succeed in preventing live
7 television coverage of the two (2) subject games. Plaintiffs will suffer immediate.

1 teaching and public service functions performed by their universities;

2 (d.) The public will be denied an opportunity to view football games
3 involving traditional rivalries and the game which will most likely decide the Big West
4 Conference Championship;

5 (e.) If Defendants are successful in preventing the telecasting of football
6 games into areas, and to consumers, into which and to whom they do not have the
7 ability to provide the games, then the boycott of Plaintiffs' station which does have the
8 ability to reach these consumers will render KMPH less able to compete with national
9 and regional cable networks and local cable monopolies which are unregulated and
10 already enjoy a competitive marketing advantage because they receive revenues not only
11 from subscribers, but also from advertisers, operate as local unregulated monopolies and
12 do not have to carry the signal of KMPH over their cable, but unilaterally may carry the
13 KMPH signal over their cable without the permission of, or compensation to KMPH.

14 (f.) If free, over the air television stations like KMPH are driven from the
15 local television market, football games of local interest will be televised, if at all, only if it
16 is one of the games selected by national or regional cable organizations which are less
17 informed and less responsive to the needs, interests, and desires of the local television
18 consumers. Further only those who have access to and who can afford cable carriage

1 damages or by any remedy at law.

2 (h.) KMPH has become the Number 1 UHF independent television station
3 in the nation because it does a better job of identifying viewers' needs, desires and
4 interests and responsibly delivers television programming responsive to those needs,
5 desires and interests in fulfillment of the FCC mandate. KMPH recognized, helped to
6 create, fostered and has nurtured a symbiotic relationship between FSU and the
7 television consumers of the San Joaquin Valley. KMPH has helped, through its
8 telecasting of FSU athletic events, FSU grow in stature and prosper, and has provided
9 valuable and popular programming to its viewers, and has established viewer loyalty by
10 reason of its close association with FSU. The same kind of viewer loyalty that Pepsi Cola
11 and Coca Cola spend hundreds of millions of dollars to both achieve and maintain by
12 reliance upon their close identification with superstars such as Michael Jackson, Paula
13 Abdul, Magic Johnson and Michael Jordan. This viewer loyalty is part and parcel of the
14 franchise value which is difficult to quantify and articulate in monetary terms. KMPH,
15 therefore, may suffer losses which may not be compensated by money damages, or by

1 allegation contained in Paragraphs 1 through 49 of this Complaint.

2 51. By reason of the foregoing, Defendants have acted in concert with the
3 purpose, intent and affect of restraining trade and commerce. Defendants are engaging
4 in a group boycott by refusing to deal with KMPH, by boycotting KMPH, and by
5 restraining Big West member institutions, specifically FSU, UOP and SJSU, from
6 appearing in locally televised games, notwithstanding the fact that the Defendants do not
7 have the ability to provide these games to the local television market (the ADI of KMPH),
8 and by refusing to consent to live television coverage of the aforementioned football
9 games. Defendants are also engaged in a horizontal cartel, which has agreed to reduce
10 the output of college football games, in order to increase artificially the price of the
11 SportsChannel television package over that which it would command in a competitive
12 market. Such conduct violates Section 1 of the Sherman Act, 15 U.S.C. §1. The
13 intentional and anti-competitive refusal of Defendants to deal with KMPH with respect to
14 local television coverage of the subject games is not necessary to the furtherance of any
15 legitimate goal of any of the Defendants.

16 52. Plaintiffs have suffered and will suffer damages in an amount which is not
17 presently ascertainable, and Plaintiffs will seek to amend this Complaint when the
18 amount of such damages has been ascertained.

19 **SECOND CLAIM FOR RELIEF**

20 **(Attempt to Monopolize Against All Defendants)**

21 53. Plaintiffs reallege and incorporate by this reference each and every allegation
22 of Paragraphs 1 through 52, of this Complaint.

23 54. Defendants have engaged in the conduct alleged herein with the specific
24 intent to monopolize the market for live television broadcast regular season Big West
25 Conference football games in violation of Section 2 of the Sherman Act, 15 U.S.C. §2.
26 The admitted goal of Defendant SportsChannel is to drive distribution of its premium tier
27 sports programming service to unregulated and monopolistic local cable companies,

1 KMPH. The goal of Defendants Marketing and SportsChannel is to be the exclusive
2 representatives for all of the members of Defendant, the Big West, including FSU,
3 negotiating television rights for college football games involving members of the Big West
4 so that the price of each individual contest and the package as a whole will be artificially
5 increased. Defendants Marketing and SportsChannel have sought and continue to seek a
6 monopoly of the Big West, college football television market. Defendants seek to form a
7 cartel consisting of Defendants, the Big West, Marketing and SportsChannel as the
8 dominant market power to gain monopoly control over the provision of Big West college
9 television broadcasts by excluding of local television broadcasters such as KMPH, who
10 have preexisting contractual rights with member institutions and under circumstances in
11 which the Defendants are unable to serve the television market served by KMPH.

12 55. There is a dangerous probability that Defendants will succeed in
13 monopolizing the market for live television broadcast of regular season Big West college
14 football games. In particular, only FSU and the University of Nevada, Las Vegas, have
15 local television contracts. Plaintiff are informed and believe and thereupon allege that
16 Defendants engaged in similar conduct with respect to the preexisting contractual rights
17 of another local television provider, Bill Manoogian, a television syndicator who owns the
18 rights to broadcast UNLV football and basketball games. Plaintiffs are further informed
19 and believe and thereupon allege that it was only after successful litigation that the
20 rights of Manoogian were recognized by Defendants herein. If Defendants succeed in
21 monopolizing the regular season Big West college football game telecasts KMPH will not

1 allegation contained in Paragraphs 1 through 55 of this Complaint.

2 57. An actual controversy has arisen and now exists between Plaintiffs and
3 Defendants regarding their respective rights and duties under the antitrust laws.
4 Plaintiffs allege that the restraints imposed by Defendants violate Sections 1 and 2 of the
5 Sherman Act, 15 U.S.C. §§ 1 and 2, and are void. Defendants deny those allegations.

6 58. By reason of the foregoing, Plaintiffs are entitled to a declaration of their
7 rights with respect to the provisions of the Agreements between and among the
8 Defendants.

9 **FOURTH CLAIM FOR RELIEF**

10 (Declaratory Relief Re: Plaintiffs's Preexisting Contractual
11 Rights Against All Defendants)

12 59. Plaintiffs reallege and incorporate herein by this reference each and every
13 allegation contained in Paragraphs 1 through 49 of this Complaint

14 60. As alleged above, KMPH entered into a contract on July 1, 1985, which
15 preexisted, by three and a half years, any and all contracts entered into between and
16 among Defendants herein. The contract entered into between KMPH and FSU granted
17 KMPH the right of first refusal with respect to the telecasting of all FSU athletic events
18 subject only to the rights of the home school if it were an FSU away contest and

1 FSU. WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

2 1. On all claims for relief, for a permanent injunction as follows:

3 (a) Enjoining each member of the Big West from withholding or
4 withdrawing its consent to the televising by KMPH of any college football game during
5 the regular college football season by reason of:

6 (1)(a) Any agreement between or among members of the Big West
7 which requires the members individually or as a conference to withhold or withdraw
8 its/their consent to the televising of any conference games by any free, over the air,
9 television station including KMPH, within that television station's ADI;

10 (1)(b) Any agreement between the Big West and any of its members, on
11 the one hand, and Marketing and/or SportsChannel or any other network or syndicator,
12 on the other hand, by which the Big West or its members have agreed or are to withhold
13 or withdraw consent to the televising of any conference game by any local television
14 station, including KMPH;

15 b. Enjoining Defendants and each of their members, affiliates, subsidiaries,
16 parents, agents and representatives from threatening to impose or imposing any
17 sanctions on any of the members of the Big West. or former members of the Big West.

1 2. For damages according to proof against all defendants, trebled;

2 3. For a declaration that the agreements between Defendants, the Big West,
3 Marketing and SportsChannel which purport to prohibit Conference members from
4 appearing in college football games televised on KMPH to television viewers which are
5 not and/or cannot be served by SportsChannel violate sections 1 and 2 of the Sherman
6 Act, 15 U.S.C. Sections 1 and 2, and are void and unenforceable;

7 4. For a declaration that Defendants are guilty of attempted monopolization in
8 violation of Section 2 of the Sherman Act, 15 U.S.C. Section 2;

9 5. For a declaration that KMPH has preexisting contractual rights which gives it
10 the primary and exclusive right to televise FSU athletic events except as specifically
11 provided for in that contract dated July 1, 1985, the Addendum, and as extended;

12 6. For Plaintiffs' cost of suit, including reasonable attorney's fees; and,

13 7. For such other and further relief as this Court may deem just and proper.

14 DATED: October 23, 1991


LAW OFFICES OF HERBERT HAFIF

15
16 By 

17 Gary Cripe
18 Attorneys for Plaintiffs
PAPPAS TELECASTING
COMPANY, INC.

19 DEMAND FOR JURY TRIAL
20

21 Plaintiffs hereby demand a trial by jury on its Complaint against Defendants
22 SportsChannel America, Inc., SportsChannel Los Angeles Holding Corp., SportsChannel
23

By 
Gary Cripe
Attorneys for Plaintiffs
PAPPAS TELECASTING
COMPANY, INC.

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11. Pappas
9-13-85
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TELEVISION BROADCASTING AGREEMENT

THIS AGREEMENT is made and entered into this *first* day of July, 1985, by and between THE CALIFORNIA STATE UNIVERSITY, FRESNO ATHLETIC CORPORATION, a California Nonprofit Corporation, hereinafter called the "Corporation" and CALIFORNIA SPORTS NETWORK, a California Corporation, and PAPPAS TELECASTING, INCORPORATED, a California Corporation, Licensee of KMPH TELEVISION, hereinafter called the "Contractors".

WITNESSETH:

WHEREAS, Contractors are a television production company and a duly licensed television station, capable of producing and airing live or delayed television broadcasts of athletic events and providing services and materials covered in this agreement; and

WHEREAS, Corporation supervises all National Collegiate Athletic Association (NCAA) recognized sports as related to California State University, Fresno; and

WHEREAS, Corporation desires to arrange for live or delayed television broadcasts and to obtain services and materials as provided herein; and

WHEREAS, Contractors are willing to provide live television broadcasts and other services and materials as provided in this agreement in accordance with the covenants, terms, and conditions hereof:

NOW, THEREFORE, IT IS AGREED as follows:

RIGHTS

A. TELEVISION BROADCASTING RIGHTS

Subject to the covenants, terms, and conditions herein set forth, Corporation grants Contractors the first right of refusal for television broadcast rights of all NCAA sports events sponsored by Corporation.

1. AREA OF EXCLUSIVITY

Said rights shall cover Contractors' (and/or network) Area of Dominant Influence (ADI) which is defined as the Counties of Fresno, Kern, Kings, Madera, Tulare, Mariposa, Merced, Stanislaus, San Benito, San Luis Obispo, and San Joaquin.

2. OFFICIAL STATION

The Corporation shall notify all parties with the need to know that Contractors are the Official Television Station of Corporation sponsored athletic events.

3. NCAA/PCAA EXCEPTIONS

NCAA or PCAA regional and/or national network telecasts supersedes contractual rights for any game.

B. BROADCAST EVENTS

1. Contractors shall televise a minimum of twenty (20) live, mutually agreed upon, NCAA men's basketball contests, home or away, during each year of this agreement;
2. And a minimum of four (4) live football away games and negotiated advanced sell out home games annually.
3. And four (4) additional mutually agreed upon events or programs to be aired live or delayed.

C. TIMES OF EVENTS

1. Times of telecasts shall be mutually agreed upon by Corporation and Contractors.

D. TERM OF AGREEMENT

This agreement shall be for a term commencing on July 15, 1985 and ending June 30, 1988; provided, however that Contractors shall have a two-year option to renegotiate this agreement for the 1988-89 and 1989-90 years. On or before April 15, 1988, Corporation shall provide Contractors with the terms and conditions of the extended agreement. Contractors shall exercise said option on or before May 1, 1988, and the written agreement shall be made and entered into not later than June 1, 1988.

E. RIGHTS FEES

1. Contractors shall pay a total rights fee of sixty thousand dollars (\$60,000.00) for 1985-86 football, basketball, and other events (to be mutually agreed upon).
2. Contractors shall pay a total rights fee of sixty-six thousand dollars (\$66,000.00) for 1986-87 football, basketball, and other events (to be mutually agreed upon).
3. Contractors shall pay a total rights fee of seventy-two thousand six hundred dollars (\$72,600.00) for 1987-88 football, basketball, and other events (to be mutually agreed upon).
4. Corporation shall try to negotiate with all parties involved to waive any rights fees payable to other teams that would normally be charged to the Contractors during the term of this agreement.